

REMARKS

The Official Action dated July 23, 2002 has been carefully considered. Accordingly, the changes presented herewith, taken with the following remarks, are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

Claim 43 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner noted that the claim must be in one sentence form only. Applicants believe that the amendment of claim 43 to include a "period" obviates this rejection. Accordingly, the rejection is traversed and reconsideration is respectfully requested.

Claims 1-45 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 5,207,933 to Trinh et al. Specifically, the Examiner states that although not identical, the claims of the present invention are not patentably distinct because Trinh teaches a composition which contains cyclodextrins, such as alpha-, beta- and gamma-cyclodextrins and mixtures thereof; glycerol 12-hydroxystearate monoester; various quaternary ammonium containing compounds; and silicones such as polydimethylsiloxanes.

This rejection is traversed and reconsideration is respectfully requested. More particularly, as defined by claim 1, the present invention is directed to compositions suitable for capturing unwanted molecules. The compositions comprise functionally available cyclodextrin, a cyclodextrin-incompatible surfactant, and a cyclodextrin-compatible surfactant. The concentration of functionally available cyclodextrin is at least about 0.001%. Attention is directed to the present specification at page 3, lines 29-31 for the definition of "functionally-available cyclodextrin", at page 7, line 32 - page 8, line 8 for the definition of

"cyclodextrin-incompatible surfactant", and at page 17, lines 12-24 for a definition of "cyclodextrin-compatible surfactant".

Trinh discloses and claims fabric softening compositions comprising fabric softener, water insoluble protected complex particles that tend to separate in the composition, soil release polymer effective to suspend the water-insoluble particles, and a liquid carrier. Trinh discloses at column 4, lines 19-32 that the water-insoluble complex particles comprise a protected particulate cyclodextrin/perfume complex effectively protected by solid, substantially water-insoluble material that melts at a temperature between about 30°C and about 90°C. The nature of the "protective material" is elaborated on at columns 8-9. Thus, the water-insoluble particles of Trinh are cyclodextrin-perfume complexes bound into a water-insoluble protective matrix, suspended in the composition. The compositions of the present invention, however, require functionally-available cyclodextrin. The function of the instantly claimed cyclodextrin is to capture unwanted molecules in a variety of contexts. The cyclodextrins of Trinh et al, complexed with perfume and bound in an insoluble matrix, are not "functionally available" as required by claim 1.

In considering a rejection under the doctrine of obviousness-type double patenting, inquiry must be made as to whether the claimed invention in the application for the second patent would have been obvious from the subject matter of the claims in the first patent, in light of the prior art, *In re Longi*, 225 U.S.P.Q. 645, 648 (Fed. Cir. 1985). Trinh et al disclose compositions containing complexed cyclodextrin. Applicants find no teaching or suggestion in claims 1-11 of Trinh et al relating to compositions containing functionally-available cyclodextrin and suitable for capturing unwanted molecules. Similarly, Applicants find no teaching or suggestion in claims 1-11 of Trinh et al relating to such compositions further comprising a cyclodextrin-incompatible surfactant and a cyclodextrin-compatible surfactant as presently claimed. Thus, the compositions defined by claims 1-45 would not have been

obvious to one of ordinary skill in the art from the subject matter of the Trinh et al claims. It is therefore submitted that the compositions defined by claims 1-45 are nonobvious over and patentably distinguishable from claims 1-11 of Trinh et al, whereby the rejection under the judicially created doctrine of obviousness-type double patenting has been overcome.

Reconsideration is respectfully requested.

Claims 1-45 were also rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-33 of U.S. Patent No. 5,942,217 to Woo et al. The Examiner asserts that even though the conflicting claims are not identical, they are not patentably distinct because Woo discloses a composition which contains cyclodextrins, such as alpha-, beta-, and gamma-cyclodextrin, polysiloxanes, block copolymers, and polymeric quaternary ammonium salts.

This rejection is traversed and reconsideration is respectfully requested. The compositions of the present invention, as defined by claim 1, comprise functionally available cyclodextrin, a cyclodextrin incompatible surfactant, and a cyclodextrin compatible surfactant.

Woo teaches and claims compositions comprising 1) uncomplexed cyclodextrin, 2) cyclodextrin compatible surfactant, 3) aqueous carrier, and 4) several optional ingredients. Applicants find no teaching in the Woo claims, or otherwise in the Woo specification, of compositions including a cyclodextrin incompatible surfactant as required by the present claims. In fact, Woo clearly teaches away from inclusion of a cyclodextrin-incompatible surfactant, specifically stating that the surfactant for use in providing the required low surface tension in the composition of the present invention should be cyclodextrin-compatible and that complex formation diminishes both the ability of the cyclodextrin to absorb odors and the ability of the surfactant to lower the surface tension of the aqueous composition (see columns 8-9). Additionally, all the examples of suitable surfactants taught by Woo are

cyclodextrin compatible. Clearly, the addition of the requisite cyclodextrin-incompatible surfactant to the present inventive composition is nonobvious over, and in fact contrary to the compositions disclosed and claimed by Woo.

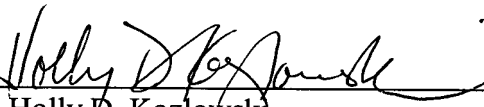
Therefore, the compositions defined by claims 1-45 would not have been obvious from the subject matter of the claims of Woo, and are patentably distinguishable therefrom. It is therefore submitted that the rejection under the judicially created doctrine of obviousness-type double patenting based on Woo has been overcome, and reconsideration is respectfully requested.

Finally, Applicants note that claims 45-52 have not been rejected. It is therefore submitted that these claims are in prima facie condition for allowance.

It is believed that the above represents a complete response to the Examiner's rejections under both 35 U.S.C. § 112, second paragraph, and the doctrine of obviousness-type double patenting, and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,

By: _____


Holly D. Kozlowski
Registration No. 30,468
DINSMORE & SHOHL LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202
(513) 977-8568
Attorney for Applicants

VERSION WITH MARKINGS SHOWING CHANGES MADE

Claim 43 is amended as follows:

43. (Amended) A composition according to Claim 42 wherein said cleaning product is a liquid cleaning product, a fabric refresher, a hair care product, a personal washing product, a deodorant, or a composition for impregnation into a wipe.

837140v1
9116-683